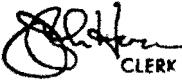


**FILED**

**MAY 11 2012**

  
CLERK

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

\*\*\*\*\*

UNITED STATES OF AMERICA, \* CR 08-40041  
\*  
Plaintiff, \*  
\*  
vs. \* ORDER  
\*  
RICKY RICARDO MARTINEZ, \*  
\*  
Defendant. \*

\*\*\*\*\*

Pending before the Court is Defendant's Motion to Amend Judgment, Doc. 33. The Court has been advised by a member of the Probation and Pre-Trial Services Office that the Bureau of Prisons ("BOP") reviewed the calculation of Defendant's sentence and has determined the Defendant was serving a state sentence until July 21, 2008. As a result, credit for Defendant's federal sentence has been recalculated by the BOP to begin on July 21, 2008, rather than in March of 2008, when Defendant entered into custody of Federal officials to appear on the Indictment in this matter.

The Bureau of Prisons, and not the Court, has the authority to credit Defendant's sentence for time served under 18 U.S.C. § 3585(b). *See United States v. Pardue*, 363 F.3d 695, 699 (8th Cir. 2004) (*citing Rogers v. United States*, 180 F.3d 349, 358 (1st Cir. 1999)) (stating that only once a defendant exhausts administrative remedies with the BOP, may a prisoner seek judicial review of any jail-time credit determination by filing a habeas petition under 28 U.S.C. § 2241). Accordingly,

IT IS ORDERED That Defendant's Motion to Amend Judgment, Doc. 33, is denied.

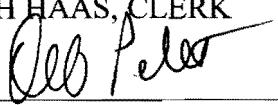
Dated this 7 day of May, 2012.

BY THE COURT:

  
Lawrence L. Piersol  
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: 

DEPUTY